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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,275	02/02/2004	Russell Andrew Straub	331p-Loanbright	2318

7590 03/19/2009  
Craig W. Barber  
PO Box 16220  
Golden, CO 80402-6004

EXAMINER
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POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3696

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/771,275	<b>Applicant(s)</b> STRAUB, RUSSELL ANDREW	
	<b>Examiner</b> Frantzy Poinvil	<b>Art Unit</b> 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/17/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In the prior Office action the Examiner had indicated that pending claims 1-12 were allowable over the art of record. After an updated search, the Examiner has discovered a new prior art. The Examiner is obliged to apply the newly found prior art. A 35 USC 102(b) rejection follows below with respect to claims 1-12. The Examiner regrets the delayed process of the application.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kannan 2001/0054064.

As per claims 1 and 6, Kannan discloses a system and method for providing live customer service between a customer and a customer service representative in real-time over the Internet. In so doing, Kannan teaches:

a first computer network site oriented to consumers and offering the services of financial service professionals (figure 5A and paragraph [0019]);

a first communication connection allowing consumers to provide to the first site a

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consumer contact for a financial service professional, the consumer contact consisting of specific contact information and general financial information (see paragraph [0069] of Kannan);

a receiving module able to receive a consumer contact, separate the specific contact information and the general financial information, and forward the general financial information to the financial service professional (see paragraph [0022] of Kannan);

a second communication connection allowing the financial service professional to provide to the first site a response to the forwarding of the consumer contact (see also paragraph [0022] of Kannan);

a monitoring module able to receive the response, and forward the specific contact information to the financial professional (see paragraph 0103] of Kannan);

a first computer implemented forum oriented to consumers and offering the services of at least one team of financial service professionals (see figure 5A and paragraph [0019] of Kannan.;

a first computer implemented communication connection allowing a consumer to provide to the first computer implemented forum at least one consumer contact for the team of financial service professionals, the consumer contact consisting of specific contact information and general financial information (see paragraph [0069] of Kannan);

a computer implemented receiving module receiving the first consumer contact, separate the specific contact information and the general financial information of the first consumer contact, and forward the general financial information to the team of financial service professionals (see paragraph [0022] of Kannan);

a second computer implemented communication connection allowing the team of financial service professionals to provide to the first .computer implemented forum a response to the forwarding of the first consumer contact (see also paragraph [0022] of Kannan);

a computer implemented monitoring module receiving the response, and forward the specific contact information to the team of financial professionals (see also paragraph [0013] of Kannan);

a computer implemented professional management module maintaining a computer implemented database of accurate contact management statistics; and

a computer implemented statistical reporting module providing such computer implemented database of statistical data to the team (see also paragraph [0071]).

As per claim 2, Kannan discloses the first .computer implemented forum further comprises a computer network; and wherein the first and second .computer implemented communications connections further comprise electronic messages (see paragraphs [0040] and [0198] of Kannan).

As per claim 3, Kannan discloses the computer implemented database of accurate contact management statistics provided to the team of financial services professionals further comprises data selected from the group consisting of:

indication of whether a particular consumer contact has been viewed, indication of whether a response to a particular contact has occurred, time of a consumer contact, time of the response to a consumer contact, time from a consumer contact to viewing of that consumer

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contact, time from a consumer contact to response to that consumer contact, and combinations thereof (see paragraph [0082] of Kannan).

As per claims 4 and 5, Kannan discloses the computer implemented database of accurate contact management statistics provided to the team of financial services professionals further comprises data selected from the group consisting of:

number of contacts viewed, percentage of contacts viewed, number of offers sent, percentage of total contacts to which offers have been sent, number of consumer responses, percentage of offers which received consumer responses, percentage of offers accepted, percentage of offers declined, number of offers accepted, number of offers declined, statistical time to view contact, statistical time for response to contact, statistical time for consumer review of offer, statistical time for consumer response to offer, statistical response time, statistical time for entire process, number of requests for additional information, percentage of responses leading to requests for additional information, number of contacts converted to actual loan applications, percentage of contacts converted to actual loan applications, number of actual closings, percentage of contacts converted to actual closings, and combinations thereof. Applicant is directed to paragraphs [0082] and [0113] of Kannan.

As per claim 7, Kannan discloses the computer implemented database of contact statistics allow collection of comparative statistics between teams. See paragraphs [0071] and [0113] of Kannan.

As per claims 8-9, see paragraphs [0071] and [0113] of Kannan.

As per claim 10, Kannan discloses the computer implemented statistical reporting module provides only blind information to the team (see paragraph [0113] of Kannan.

As per claim 11, Kannan discloses a system and method for providing live customer service between a customer and a customer service representative in real-time over the Internet. In so doing, Kannan teaches:

electronically offering a first computer implemented forum offering the services of at least one such financial professional team to consumers, such computer .implemented forum offering consumers the ability to generate at least one consumer contact for such financial service professionals (see paragraph [0019] of Kannan);

electronically receiving the consumer contact from such a consumer on behalf of the financial service professional team, the consumer contact comprising both specific contact information and general financial inquiry information (see paragraph [0081] of Kannan);

electronically separating the specific contact information from the general financial inquiry information (see paragraph [0019] of Kannan);

electronically forwarding to such financial service professional team the general financial inquiry information (see paragraph [0099] of Kannan);

electronically awaiting a confirmation that such financial service professional team has responded to such consumer contact (see also paragraph [0099] of Kannan) and

after the confirmation, electronically forwarding to such financial service professional team the specific contact information (see paragraph [0073] of Kannan);

electronically maintaining a computer implemented database of accurate contact statistics (see paragraph [0071] of Kannan) ; and

electronically forwarding the accurate contact statistics to such financial service professional team (see paragraph [113] of Kannan.

As per claim 12, Kannan disclose the step e) of electronically awaiting a confirmation that such financial service professional has responded to such contact further comprises: e1) electronically providing to such financial service professional the ability to respond to such contact; e2) electronically receiving from such financial service professional such response; and e3) electronically forwarding such response to the consumer. Applicant is directed to paragraph [0073].

### **Double Patenting**

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 are provisionally rejected under the Judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of Application No. 10/618,215. Although the conflicting claims are not patentably distinct from each other because



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claims 1-21 of the instant application are directed to a similar subject matter contained in claims 1-15 of the '215 application. Both inventions are obvious variations of each other achieving the same end result. It would have been obvious to one of ordinary skill in the art to note that the features of claims 1-12 are contained in claims 1-15 of the '215 patent application.

Claims 1-12 are provisionally rejected under the Judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of Application No. 12/291,677. Although the conflicting claims are not patentably distinct from each other because claims 1-12 of the instant application are directed to a similar subject matter contained in claims 1-15 of the '677 application. Both inventions are obvious variations of each other achieving the same end result. It would have been obvious to one of ordinary skill in the art to note that the features of claims 1-12 are contained in claims 1-15 of the '677 patent application.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00Am to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Frantzy Poinvil/  
Primary Examiner  
Art Unit 3696**

FP  
March 9, 2009